

REMARKS

Reconsideration of the above-identified application in view of the present amendment is respectfully requested.

Claim 10 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicant has amended claim 10 and underlying claims to provide clarification. Applicant respectfully requests withdrawal of the rejected under 35 U.S.C. §112, second paragraph.

Claims 1-4, 6, and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over newly cited Roelle (U.S. 4,833,935). The rejection is respectfully traversed.

In quick summary, Roelle discloses a control arrangement for a lawn mower. In particular, Roelle is directed to the use of an operator-presence bail for the purpose of providing a positive mechanical blocking arrangement to prevent actuation of an electric engine starting switch.

There are several points of distinction that are present in the claims.

Claim 1 states "throttle control device for controlling a variable engine throttle valve." A lawn mower operator-presence bail, such as bail 22 of Roelle, does not control a variable engine throttle valve. Instead, a lawn mower operator-presence bail simply acts to disable an engine if the bail is released (i.e., the operator is not present) as a safety function.

Claim 1 states "hand held tool grasped and supported by an operator." The lawn mower is supported by the ground over which the lawn mower moves.

Claim 1 states "the second axis (16) is arranged behind the first axis (15) with respect to the forward direction of the extending wire (17) and the second axis (16) is further from the throttle valve than the first axis (15)." In the Roelle device, the forward direction is toward the left as viewed in the Figures. The Examiner has already identified the first axis as reference numbers 28, 30, 32, 34, and identified the second axis as reference numbers 38, 40. As easily understood from the Roelle Figures, the first axis (28, 30, 32, 34) is behind the second axis (38, 40) and thus furthest.

Overall, these are fundamental and easily recognized differences because the Roelle device (a lawn mower operator presence bail arrangement) is really a different design/approach/function as compared to the present arrangement (a throttle control device for a variable throttle). It is noted that the Office action, at page 4, does provided some discussion that appears to be a basis for asserting that the lawn mower operator presence bail arrangement can be used to make a rejection. However, the amendments to the claims make it clear that the lawn mower operator presence bail arrangement is no longer a proper basis.

Turning next to the asserted combination of Roelle and Hammond (U.S. 4,028,804), it is respectfully submitted that a person of ordinary skill in the art would not have tried to combine the teachings from Roelle and Hammond, and, assuming *arguendo* that the person of ordinary skill would have even tried to combine the teachings, the present invention would not have been provided.

As mentioned, the Roelle device is an operator presence bail arrangement for a lawn mower. As such, the Roelle device naturally has a very different configuration than a chain saw (such as Hammond). Apparently, the Office action has cited Hammond because of the presence of a safety lever (22) that prevents a throttle lever from moving (see Office action, top of page 5). But, it is easily understood that the operator presence bail is a safety mechanism and it would be wholly illogical to block movement of the operator presence bail. In other words, the logical person of ordinary skill in the art is not going to look at the Roelle device and then proceed to Hammond patent for the purpose of devising a way to block the provided safety mechanism. It is noted that the Office action tries to make some sort of functional connection between Roelle and Hammond by asserting that the bail 22 of Roelle prevents the bail disc 26 from moving (see Office action top page 5). However, such is not a correct assertion for the purpose of trying to make a connection between Roelle and Hammond since the bail 22 is simply fixed for rotation with the bail disc 26 (see that the flat tongue of the bail 26 is inserted into the slotted opening 24 of the bail disc 26). All of this is in addition to the above-discussed short-falls of the Roelle device of satisfying claim language. Thus, even assuming, *arguendo*, that the Roelle device were modified in view of Hammond to have a lever to block the bail movement, the limitations would not satisfied. For example, the basic structure/operation of the Roelle device includes the first axis (28, 30, 32, 34) being behind the second axis (38, 40) and thus furthest (so the limitation of "the second

Appl No. 10/571,514
Amdt. dated: February 2, 2011
Reply to Final O/A dated: September 2, 2010

axis (16) is arranged behind the first axis (15) with respect to the forward direction of the extending wire (17) and the second axis (16) is further from the throttle valve than the first axis (15)" is not satisfied).

The dependent claims provide additional aspects that would not be provided. For example, the Office action notes that Hammond provides a one-piece spring. However, as discussed above, the bail 22 of Roelle is a safety structure concerning operator presence. It is not logical to have a shared biasing relationship with some structure that would block movement of the bail. The problem concerning the lack of logical if movement blocking is contemplating for such a safety device would just be compounded.

In view of the foregoing, it is respectfully submitted that the above-identified application is in condition for allowance, and allowance of the above-identified application is respectfully requested. If, for some reason, the Examiner perceives some issue that prevents an immediate allowance of the subject application, the Examiner is explicitly invited to contact the undersigned attorney to discuss such impediment.

If there are any fees resulting from this communication please charge same to our Deposit Account No. 16-0820, our Order No. ABE1-39943.

Respectfully submitted,
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Date: February 2, 2011